IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE A.K.BASHEER

THURSDAY, THE 25TH JANUARY 2007 / 5TH MAGHA 1928

LA.App..No. 18 of 2007(D)

LAR.63/2001 of SUB COURT, HOSDRUG
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APPELLANT: RESPONDENT 1ST:

THE SPECIAL TAHSILDAR,
LAND ACQUISITION, RAILWAY, KASARGODE.

BY GOVERNMENT PLEADER SRI.K.V.MANOJ KUMAR.

RESPONDENTS: CLAIMANT/2ND RESPONDENT:
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1. K. KOTTAN, S/O. ALAMI,
PALLAM, PALLIKKARA Il VILLAGE, P.O. UDMA.

2. THE DEPUTY CHIEF ENGINEER(CONSTRUCTION),
SOUTHERN RAILWAY, KANNUR.

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 25/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & A.K.BASHEER, JJ.

C.M.Appln.23/07 & L.A.A.No.18 of 2007

Dated 25th January, 2007.

J U D G M E N T

Kurian Joseph, J.

An extent of around 9.5 cents of land was acquired for the purpose of doubling a railway line. Section 4(1) notification was issued in 1997 and the land was taken possession in 2000. The Land Acquisition Officer fixed the land value at Rs.7,977/- per cent and the reference court fixed it at Rs.30,000/- per cent. It is seen from the judgment that the fixation is made taking note of the fact that the acquired property is situated at a commercially important locality, very near to the Udma-Palakkunnu State Highway. It is seen from the commission report also that several commercial establishments like theatre, shopping complexes and telephone exchange are situated near to the property. Udma Panchayat office is also situated nearby. Ext.X2 plan also has been noted by the reference court. Thus, on an overall assessment of the importance of the locality only, the land value was fixed at Rs.30,000/-. The fixation thus being made on the basis of the evidence of the claimant, who was examined as AW1, Ext.X1 commission report, Ext.X2 plan and Exts.A1 and A2

documents produced by the claimant, we do not find any justification to interfere with the judgment. We are also of the view that if the appeal is admitted, ultimately it would only be detrimental to the interests of the State since the interest to be paid is at the rate of 15%. For all the reasons, the delay petition and the appeal are dismissed.

KURIAN JOSEPH, JUDGE.

A.K.BASHEER, JUDGE.

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KURIAN JOSEPH & A.K.BASHEER, JJ

W.P.(C) NO. OF 2004

J U D G M E N T

Dated 25th January, 2007.